

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

APPLE INC.,

*Plaintiff,*

v.

MASIMO CORPORATION and  
SOUND UNITED, LLC,

*Defendants.*

C.A. No. 22-1377-MN-JLH  
C.A. No. 22-1378-MN-JLH

MASIMO CORPORATION, CERCACOR  
LABORATORIES, INC.,

*Counter-Claimants,*

v.

APPLE INC.,

*Counter-Defendant.*

**JOINT MOTION TO AMEND THE CASE SCHEDULE**

Plaintiff and counter-defendant Apple Inc. (“Apple”), defendant and counter-claimant Masimo Corporation (“Masimo”), defendant Sound United, LLC (“Sound United”), and counter-claimant Cercacor Laboratories, Inc. (“Cercacor”) (collectively, the “parties,” and individually, each a “party”) respectfully submit this joint motion to modify certain dates of the Scheduling Orders entered by the Court on May 25, 2023 [D.I. 103 (-1377) & D.I. 92 (-1378)].

There is good cause for the requested modification of the Scheduling Order because the modification will allow the parties to complete ESI productions prior to the close of fact discovery and to sequence depositions such that, for appropriate witnesses, the deposition may follow completion of the relevant ESI production. Given the parties’ need to extend the deadline for

completing fact discovery, the parties further require a commensurate extension of the remaining case deadlines. The parties have endeavored to propose limited extensions to try to minimize the impact on the current case schedule.

Accordingly, the parties jointly and respectfully request that the Court grant this motion and amend the Scheduling Orders [D.I. 103 (-1377) & D.I. 92 (-1378)] to reflect the below proposed dates:

EVENT	Current Deadline	New Deadline
Parties to identify 15 opposing witnesses they can depose before October 19, 2023	N/A	Sept. 19, 2023
Deadline for the completion of all email production (¶8(b))	N/A	Oct. 5, 2023
Parties to depose witnesses identified on September 19, 2023 (subject to witness availability)	N/A	Oct. 19, 2023
Deadline for the close of fact discovery (¶8(a))	Sept. 21, 2023	Nov. 9, 2023
Deadline for opening expert reports for each party that bears the initial burden of proof (¶8(f)(i))	Oct. 4, 2023	Nov. 22, 2023
Deadline for rebuttal expert reports (¶8(f)(i))	Oct. 24, 2023	Dec. 15, 2023
Deadline for reply expert reports (¶8(f)(i))	Nov. 6, 2023	Jan. 5, 2023
Interim Status Report (¶15)	Nov. 9, 2023	Jan. 12, 2023
Deadline for the completion of expert discovery (¶8(f)(iv))	Nov. 17, 2023	Jan. 30, 2024
Deadline for the parties to file all case dispositive and <i>Daubert</i> motions, as well as an opening brief, statement of facts, and affidavits, if any (¶16)	Nov. 22, 2023	Feb. 5, 2024
Deadline for the parties to oppose case dispositive and <i>Daubert</i> motions (¶16)	Dec. 8, 2023	Feb. 21, 2024
Deadline for the parties to reply to case dispositive and <i>Daubert</i> motions (¶16)	Dec. 15, 2023	Feb. 28, 2024
Deadline for parties to file joint letter (no longer than six pages single-spaced)	10 days before Jan. CMC	10 days prior to Mar. CMC
Case Management Conference	Jan. __, 2024	Mar. [ ], 2024

EVENT	Current Deadline	New Deadline
Deadline to serve a draft pretrial order (¶19; L.R. 16.3(d)(1))	TBD	TBD
Deadline for parties to serve motions <i>in limine</i> (¶18)	TBD	TBD
Deadline for parties to serve oppositions to motions <i>in limine</i> (¶18)	TBD	TBD
Deadline for parties to serve replies to motions <i>in limine</i> (¶18)	TBD	TBD
Deadline to serve response to draft pretrial order (¶19; L.R. 16.3(d)(1))	TBD	TBD
Deadline for parties to file joint pretrial order (¶18)	7 days prior to Pretrial Conference	7 days prior to Pretrial Conference
Deadline for the parties to file proposed jury instructions, voir dire, and verdict forms (¶20)	7 days prior to Pretrial Conference	7 days prior to Pretrial Conference
Pretrial Conference (¶20)	TBD	TBD
Trial (¶21)	TBD	TBD

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Dated: September 13, 2023

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Masimo Corporation, Defendant Sound  
United, LLC, and Counter-Claimant Cercacor  
Laboratories, Inc.*

IT IS SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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The Honorable Jennifer L. Hall